

Senate Bill 371

By: Senators Cowser of the 46th, Hamrick of the 30th, Fort of the 39th, Goggans of the 7th and Tate of the 38th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 5 of Chapter 8 of Title 16 and Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to residential mortgage fraud and the Georgia Bureau of Investigation, respectively, so as to provide the Georgia Bureau of Investigation with the authority to investigate certain offenses involving fraudulent real estate transactions; to provide the Georgia Bureau of Investigation subpoena power for such investigations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to residential mortgage fraud, is amended by revising Code Section 16-8-104, relating to authority of district attorneys and the Attorney General to investigate and prosecute offenses involving residential mortgage fraud, as follows:

"16-8-104.

District attorneys and the Attorney General shall have the authority to conduct the criminal investigation and prosecution of all cases of residential mortgage fraud under this article or under any other provision of this title. Nothing in this Code section shall be construed to preclude otherwise authorized law enforcement agencies from conducting investigations of offenses related to residential mortgage fraud."

SECTION 2.

Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation, is amended by revising subsection (a) of Code Section 35-3-4, relating to powers and duties of the Georgia Bureau of Investigation, by striking "or" at the end of paragraph (10), by replacing the period with "; or" at the end of paragraph (11), and by adding a new paragraph to read as follows:

"(12) Identify and investigate violations of Article 5 of Chapter 8 of Title 16."

SECTION 3.

Said chapter is further amended by adding a new Code section to read as follows:

"35-3-4.2.

(a) In any investigation of a violation of Article 5 of Chapter 8 of Title 16 or other criminal violations involving fraudulent real estate transactions, the director, assistant director, or deputy director for investigations shall be authorized to issue a subpoena, with the consent of the Attorney General, to compel the production of books, papers, documents, or other tangible things, including records and documents contained within, or generated by, a computer or any other electronic device.

(b) Upon the failure of a person without lawful excuse to obey a subpoena, the director, assistant director, or the deputy director for investigations, through the Attorney General or district attorney, may apply to a superior court having jurisdiction for an order compelling compliance. Such person may object to the subpoena on grounds that it fails to comply with this Code section or upon any constitutional or other legal right or privilege of such person. The court may issue an order modifying or setting aside such subpoena or directing compliance with the original subpoena. Failure to obey a subpoena issued under this Code section may be punished by the court as contempt of court."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.